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09/370,935 08/09/99 SERETTI H 990809

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EXAMINER

RETTA, Y

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 22

Application Number: 09/370,935
Filing Date: August 09, 1999
Appellant(s): SERETTI ET AL.

H. Seretti et al.
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed August 21, 2001.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is substantially correct. The rejection of claim 30 under the 35 USC 112, 2nd has been withdrawn due to Appellant's arguments in the Brief.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1, 12, 23, 28 and 30 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,758,328	GIOVANNOLI	5-1998
5,774,873	BERENT ET AL.	6-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2, 5-8, 10, 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli U.S. Patent No. 5,758,328, in view of Berent et al. U.S. Patent No. 5,774,873.

As per claims 1, 22-26, 28 and 29, Giovannoli teach a plurality of computer terminals, each including an input device for inputting characteristics and financial data, each of the computer terminals operative to transmit to each other and receive from one another both the characteristics data units and the financial data units for display on respective display devices (see fig. 1 and col. 1 line 42 to col. 2 line 67)); a processor for controlling the vehicular data inputted into any selected one of terminal and transmitted to plurality of other terminals for display (see column 6 lines 1-56); a processor in communication with the plurality of computer terminals for controlling the data inputted at any time into any selected one of the computer terminal and transmitted immediately thereafter for display to remaining ones of the terminal for display on respective ones of the display devices associated with said remaining ones of said

computer terminals, and financial data are inputted into at least a responding one of said remaining ones are transmitted to the selected one computer terminal for display on the display device associated with the selected one, (see col. 2 lines 35-67 and col. 3 lines 1-20). Giovannoli teaches entering products or services characteristics and financial data, however he does not explicitly disclose vehicular characteristic and financial data, it is disclosed in Berent et al. (see col. 6 lines 27-33). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to combine the teachings of Giovannoli' computerized quotation and Berent et al.' vehicular auction information system in order to sell or buy vehicle using direct quota system. One would have been motivated to minimize the time consuming task of maintaining and updating a central database as taught by Giovannoli. Giovannoli also teaches characteristics data and financial data units inputted by human operator.

Appellant argues that Giovannoli does not teach or suggest that each of the computer terminals has a display device for visually displaying the vehicular data inputting into its computers, particularly the system central computer. Appellant argues that there is no teaching or suggestion that the system central computer has a display device that displays inputted vehicular characteristics data units or vehicular financial data units. Appellant might be correct, however none of the claims recites where the processor (central) has a display device that displays the inputted data as argued by Appellant. Appellant's specification does not disclose such feature. As claimed and as disclosed by the specification the processor controls the data that is inputted into the computer terminals, which are different from the processor. According to Appellant's specification the processor is not considered one of the computer terminals for inputting data.

Regarding claim 2, Giovannoli teaches choosing specific ones of said remaining ones of said plurality of computer terminals to which the characteristics data units are transmitted (see abstract). For vehicle characteristics data see the rejection of claim 1.

As per claims 5-8 and 10, Giovannoli teaches entering products or services characteristic data, and identifying a source of financial data units transmitted, however does not explicitly show vehicular characteristics and financial data units include a make, a model and a year and description of the vehicle, wherein the description includes at least one of the body type, color, mileage and general condition of the vehicle vehicular financial data units of the vehicle include at least one of a bid price amount, an assessment price amount, a wholesale price amount, and a retail price amount, it is disclosed in Berent (see col. 6 line 27-33 and col. 9 lines 1-37). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to combine Giovannoli's direct quotation system with Berent's vehicle characteristic and financial data for the purpose of selling vehicles.

Regarding claims 12 and 13, Giovannoli teaches providing at least three computer terminals, each of the at least three computer terminals having a display device, the at least three computer terminals operative to transmit to each other and receive from one another the product or service data for display on respective display devices; selecting any one of the at least three computer terminals as a data inquiring computer terminal; deeming the remaining ones of the at least three computer terminals as data responsive computer terminals (see fig. 1); inputting characteristics data units at any time into the data inquiring terminal for display on its display device; processing the data units immediately after inputting the characteristics data units by transmitting the data units to the data responsive terminals for display; inputting the financial data units

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into at least one of the data responsive terminals for display device in response to the characteristic data received by the data responsive terminals; and transmitting the financial data units immediately after inputting the financial data units to the inquiring terminal for display (see col. 3 line 55 to col. 4 line 50). Giovannoli teaches processing requests for quotation for goods and services, however does not state inputting vehicular characteristics and financial data, it is stated in Berent et al. (see figure 1 and column 6 lines 27-33 and column 9 lines 40-50). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to incorporate the teachings of Berent et al. vehicular auction information system into Giovannoli's quotation system for the purpose of selling vehicles.

Regarding claims 17-20, Giovannoli teaches entering characteristics data units, financial data of a product, and the source of each data responsive terminal (buyer or seller identification (code)) (see fig.7), however, does not specifically state vehicular characteristics including a make, model, year of the vehicle, description of the vehicle and financial data of a vehicle, it is disclosed in Berent et al. (see col. 6 lines 27-52 and col. 9 lines 40-50). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to incorporate the teachings of Berent et al. vehicular auction information system into Giovannoli's quotation system for the purpose of selling vehicles.

As per claims 21 and 27 Berent disclose interactive bidding between motor vehicle dealers (see col. 1 lines 5-50). It would be obvious to one of ordinary skill in the art at the time of Appellant's invention to combine Berent and Giovannoli's invention in order to allow dealers to participate in the bidding.

Regarding claim 30, Giovannoli teaches a plurality of computer terminals

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operative to transmit and receive data so that plurality of users are capable of transmitting to each other and receiving from one another both the characteristics data units and financial data units (see col. 5 line 9 to col. 6 line 11 and col. 7 lines 53-67).

Giovannoli teaches dealership users capable of receiving both characteristics and financial data of products and services, however does not explicitly teach vehicular characteristics or financial data being received vehicle dealership user, it is disclosed in Berent (see col. 2 lines 1-10, col. 6 lines 15-45 and col. 9 lines 20-61). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to incorporate the teachings of Berent et al. vehicular auction information system into Giovannoli's quotation system for the purpose of selling vehicles. In both systems of Giovannoli and Berent, the dealership users are capable of exchanging data within any time period. It does not change the functionality of the system whether the prospective customer remains at the dealership or not.

(11) Response to Argument

- A. THE REJECTION OF CLAIM 30 AS BEING INDEFINITE UNDER 35 USC § 112 HAS BEEN WITHDRAWN.**
- B. THE REJECTION OF CLAIMS 1, 2, 5-8, 10, 12, 13 AND 17-30 UNDER 35 USC § 103(a) IS PROPER.**

1. USPTO ESTABLISHED A PRIMA FACIE CASE OF OBVIOUSNESS.

The Examiner presented a prima facie case of obviousness. As stated in the rejection of Giovannoli teaches communication networks of network buyers and vendors

for processing requests for quotation for goods and services. Giovannoli teaches entering products or services characteristics and financial data. Giovannoli does not explicitly show the characteristics and financial data being of a vehicle. Berent's electronic motor vehicle auction information system discloses vehicular characteristics data and vehicular financial data (see col. 6 lines 27-33). It would have been obvious to one of ordinary skill in the art at the time of Appellant's invention to combine the teachings of Giovannoli's computerized quotation and Berent's vehicular characteristics and financial data in order to sell or buy vehicle using a direct quota system. One would also been motivated to use the Giovannoli's direct quota system to minimize the time consuming task of maintaining and updating a central database as suggested by Giovannoli (see col. 1 line 42 to col. 2 line 32).

2. USPTO CONSIDERED ALL CLAIM FEATURES AND THE PRIOR ART SHOWED "ANY SELECTED COMPUTER" AS CLAIMED.

Claims 1, 12, 23 and 28 recite that vehicular characteristics data units are inputted into any selected one of a plurality of computer terminals. Giovannoli disclosed characteristics data being inputted at any time at any one of the vendors selling any particular item. The merchant selling the item happens to be the selected one of the plurality of computer terminals. When the merchant is buying an item from one of the selected one, the buyer then inputs the financial data for the item for sell. Giovannoli teaches that users of the computer network can be buyers and/or vendors (see col. 4 lines 1-16 and col. 7 lines 53-62). Therefore, the prior art as modified by Beret's motor vehicle auction information system discloses vehicular characteristics data units being

inputted into any selected one of a plurality of computer terminals. The claim also recited that the vehicular data units are inputted at any time into any selected one of said computer terminals and are transmitted immediately thereafter to remaining ones. Giovannoli teaches the Request for quotation (RFQ) being processed and transmitted to vendors over the Internet (see col. 5 line to col. 6 line 11).

3. THE PRIOR ART SHOWS "DISPLAYING DATA BEFORE RESPONSE".

Regarding the claim limitation "for display on respective ones of the display devices associated with the receiving ones of the computer terminals...in response to the vehicular characteristics data units displayed on the display device of the at least one responding computer and are transmitted to the selected one...for display on the display device associated with the selected one of the computer terminals", Appellant argues that the prior art teaches automatic response, not response made after data is displayed on the responding computer terminal. Examiner disagrees that the prior art teaches "automatic response" which implies that the system responses to the RFQ prior to the vendor/buyer view the information. The prior art teaches the buyer or vendor receiving the RFQ and responding to it (see col. 7 lines 1-67).

4. REGARDING CLAIM 30, THE EXAMINER ADDRESSED ALL FEATURES OF THE CLAIM.

Claim 30 recites that the vehicular data is exchanged within a time period during which the prospective customer remains at the dealership. The system of Giovannoli or Berent, the information is being exchanged within very short time period, the time it

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takes the computer system to transmit the information. Since the information is transmitted within few minutes, it is probable that the prospective customer remains in the dealership for those few minutes. The time period during which the prospective customer remains at the dealership is longer than the time it takes for the system to exchange the data.

5. APPELLANT ARGUES THAT THE PRIOR ART REFERENCES FAIL TO TEACH THE PROBLEM SOLVED BY THE CLAIMED INVENTION.

Appellant argues that there are not teachings, suggestion or evidence in the applied art that data can be exchanged with a time period during which a customer remains on the premises of the seller. Examiner would like to point out, in response to Appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Examiner have already addressed the motivation to combine, see the comment stated in (a) above.

6. APPELLANT'S ARGUMENT REGARDING HINDSIGHT AND THE PROPER COMBINATION OF THE PRIOR ART.

In response to Appellant's argument that USPTO relied upon hindsight logic and failed to properly combine the prior art references, Examiner would like to point out that

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the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

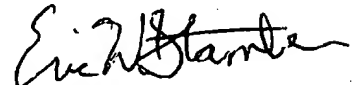
The motivation to combine is addressed above in (a).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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November 1, 2001


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